

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Anthony Jerald Schramm**

Docket No. **280961**

L.C. No. **00-018176-FH**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The delayed application for leave to appeal filed on September 27, 2007, is DISMISSED for lack of jurisdiction because it was not filed within 12 months of the 2003 sentencing as required by MCR 7.205(F)(3), nor was it filed within either one of the two exceptions found in MCR 7.205(F)(4). In particular, appellate counsel was not requested within 12 months of the judgment of sentence. There was no *Halbert* violation in this case, which means that the time period to proceed did not start with the appointment of counsel. A *Halbert* violation occurred either when a timely request for appellate counsel was denied or a defendant was specifically told that appellate counsel would not be appointed even if requested. In this case the defendant was specifically told on page seven of the sentencing transcript, "If you're financially unable to retain a lawyer, you may request within 42 days appointment of a lawyer to represent you on appeal." The notice of rights form given to the defendant, even though it gave examples of when a counsel appointment would occur, never made any representation to the defendant that counsel would be denied if requested.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

NOV - 1 2007
Date

Sandra Schultz Mengel
Chief Clerk